4. More than One Year -- Calculate actual cost rate at intervals greater than 12 months. High degree of predictability for applicants but also could result in significant numbers of payments that were above or below actual costs and thus require significant adjustments each time actual cost rate is calculated.

- ***The Actual Cost Method must be applicable at either Cataloging Unit (CU), Basin, or State levels.***
  Nutrient-reduction rules are currently in effect in the Tar-Pamlico and Neuse river basins and have been proposed in the Upper Cape Fear basin. Nutrient requirements must be met within the eight-digit Cataloging Unit (as defined by the U.S. Geological Survey; see pg. 15 of the appendix for a map of the eight-digit Cataloging Units for the Tar-Pamlico and Neuse river basins). The proposed Cape Fear rules require mitigation for nutrients in smaller watersheds. The costs of achieving nutrient reductions will vary from watershed to watershed. Therefore, the Actual Cost Method must be applicable to watershed's size and must result in the collection of dollars equal to the actual cost of producing projects in those watersheds. Since a single flat statewide fee could result in below cost fees in high-cost watersheds, EEP supports the application of the Actual Cost Method on either the watershed or river basin level, but not at the State level.

- ***The Actual Cost Method must be applicable to either nitrogen or phosphorus offsets.***
  The Neuse and Tar-Pamlico rules and the proposed Upper Cape Fear rules require mitigation offsets to both nitrogen and phosphorus. The costs associated with removing nitrogen and phosphorus differ significantly. The Actual Cost Method must account for the differing costs associated with removing these nutrients.

- ***The Actual Cost Method must be understandable and easy to use.***
  EEP interacts annually with hundreds of citizens and customers, including municipalities, to assist them in meeting their regulatory requirements so that their development projects can proceed. The Nutrient Offset Program currently accepts payments for nitrogen and phosphorus in nine watersheds (with three additional watersheds proposed in the Upper Cape Fear basin). The Actual Cost Method could be used to develop rates for each watershed-nutrient combination (a multiple-rate approach) or could be used to develop a single rate. Both approaches would be based on actual costs. The Actual Cost Method must factor in the ease of communicating and administering the program without creating a difficult-to-understand program.

- ***The Actual Cost Method must be predictable and equitable.***
  Consideration was given to actual-cost process that would charge applicants based on the actual costs of the most recently initiated individual nutrient project. Since individual nutrient-reduction projects vary in cost per pound of reduction, such a process would result in unpredictable and highly variable mitigation costs for applicants. This process would also result in similar applicants being charged significantly different rates solely because of the timing or order of the request. This type of actual-cost approach would be difficult to understand and would present a perception of inequality. Thus, the Actual Cost Method must contain an element of predictability (actual cost rates stable for a specific period of time) and be equitable (applicants pay similar rates when requested at similar time periods).

- ***The Actual Cost Method must be in place by September 2009.***
  Session Law 2007-438 expires in September 2009. At that time, a new rate structure must be installed for the Nutrient Offset Program. DENR is proposing to establish the Actual Cost